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| Date: 12 April 2010 | Number of pages - (this one included) : 5 |
| Subject: COMMUNICATION FROM SPECIAL PROCEDURES ALLEGATION LETTER AL Housing (2000-9) GBR 2/2010 | |

Please find attached an allegation letter sent by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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AUX DROITS DE L'HOMME



**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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REFERENCE: AL Housing (2000-9)
OBR 2/2010

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**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**



Address:
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12 April 2010

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 6/27.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding the threat of eviction of the Roma/Gypsy/Traveller community of Dale Farm in Essex.

According to the information received:

Dale Farm, the largest Roma/Gypsy/Traveller community in the United Kingdom, comprising of approximately 1000 residents, is facing the threat of eviction from the land they own. Dale Farm has been home to Roma/Gypsy/Traveller communities since the 1960's. Although the Roma/Gypsy/Traveller community at Dale Farm has possession of the land from which they are to be evicted, they were refused planning permission for their caravans when the land was designated as Green Belt. Basildon District Council and the Secretary of State for Communities and Local Government have reportedly refused to grant planning permission on the basis of the harm that may be caused to the Green Belt. The Council has served a number of enforcement notices ordering the removal of the chalets, mobile-homes and caravans from the land they occupy. These enforcement notices concern some 90 families, comprising approximately 300 people, including many children, elderly and infirm. As the enforcement notices have not been complied

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H. E. Mr. Peter Gooderham
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with, Basildon District Council allegedly decided to pursue direct action to evict the community in 2005.

The decision by the Council to take direct action and evict the Dale Farm community has been challenged by the residents. On 5 May 2008, the High Court of Justice quashed the respective order by Basildon District Council. However, the judgment was overturned and the decision was upheld by the Court of Appeal on 22 January 2009. An application for permission to appeal to the House of Lords was refused on 14 May 2009. The residents are currently proceeding with homelessness applications.

On 10 December 2009, Basildon District Council reportedly selected the private bailiff company Constant and Co. (Redford) Ltd to undertake planning enforcement action. This company is allegedly responsible for the Twin Oaks eviction, in Hertfordshire in 2004, when chalets and private property were needlessly burned. It purportedly also acted as the agent for Chelmsford Borough Council at the Meadowlands eviction of 2004, which entailed burning of caravans and racial abuse against the residents. These actions drew criticism from the High Court judge, who during the May 2008 hearing said it was "inappropriate" for Basildon Council to continue using Constant & Co.

The housing options that have been offered by the Council are apparently unsatisfactory and fail to meet the specific cultural needs of the affected community. Moreover, the planned evictions may result in irreparable harm to the Dale Farm community, particularly given the private bailiff that is due to conduct the eviction. Such irreparable harm includes, inter alia, the loss of housing and other personal belongings, the dangers associated with lack of shelter due to resulting homelessness, and the loss of social networks and cultural integrity.

It has been reported that the case of the Dale Farm community is one example of a pattern of discrimination against Roma/Gypsy/Traveller communities in the United Kingdom. As a result of the Criminal Justice and Public Order Act (CJPOA) of 1994, there is no longer an enforceable legal duty on local authorities to provide sites for the caravans of members of Roma/Gypsy/Traveller communities. Whilst the powers provided under the Caravan Sites and Control of Development Act (CSCDA) of 1960 to offer temporary or permanent sites have remained in place, since 1994 they are rarely, if ever, used. Instead, it has reportedly been government policy since 1994 that sites for Roma/Gypsy/Travellers are to be sought and planning permission obtained through private endeavour by such communities themselves. However, due to the CJPOA Act, these communities have been facing major difficulties in finding adequate sites and obtaining planning permission to develop the sites.

While I do not wish to prejudge the accuracy of these allegations, I would like to remind your Excellency's Government of Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which the United Kingdom is a party, which states that "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including housing, and to the

continuous improvement of living conditions". The Committee on Economic, Social and Cultural Rights commented the right to adequate housing in its General Comment No. 4, stressing that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With "due priority to those social groups living in unfavourable conditions," the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that "the right to housing should be ensured to all persons irrespective of income or access to economic resources".

As repeatedly stated, including in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute prima facie violations of a wide range of internationally recognized human rights and large-scale evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. According to General Comment No. 7:

"15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

"16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available."

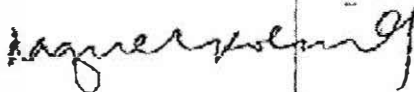
It is my responsibility under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. As I continue to monitor this case, I would be grateful for your cooperation and your observations on the following matters:

1. Are the alleged facts in the above summary of the case accurate?

2. Has a complaint been lodged by or on behalf of the alleged victims?
3. On what legal basis are the evictions to be carried out? How many people will be affected by the evictions?
4. Did appropriate consultations take place with the affected persons? If yes, please give the details, date and outcome of these consultations. Were measures taken in order to reach a peaceful and viable solution in agreement with the Dale Farm community? Were the planned evictions halted until an adequate solution is achieved to meet the housing needs, including suitable and cultural adequate accommodation, of the Dale Farm community?
5. Was an impact assessment carried out in order to identify the social and housing effects of the planned evictions?
6. Did Basildon District Council select the private company Constant and Co. (Bedford) Ltd to undertake planning enforcement action? Did the selection process take into account the records of the company concerning corporate social responsibility and respect for international human rights standards? Please provide information regarding the proceedings and results of the selection process.
7. What measures have been foreseen to ensure that the persons affected by the evictions will not become homeless? Were the affected persons offered compensation for the loss of their houses and livelihood? If not, please state the reasons for this decision. What has been foreseen in terms of relocation?

I would appreciate a response within sixty days. I undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports I will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.



Raquel Rolnik

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context